

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

**ALARIC STONE, ERIC JACKSON, and
MICHAEL MARCENELLE**, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

ALEJANDRO N. MAYORKAS, in his official
capacity as Secretary of Homeland Security,
LLOYD J. AUSTIN, III, in his
official capacity as Secretary of Defense,
LINDA L. FAGAN, in her official
capacity as Commandant of the Coast Guard, and
BRIAN K. PENOYER, in his official capacity
as Assistant Commandant for Human
Resources of the Coast Guard,

Defendants.

Case No. 4:22-cv-825-P

**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTIONS FOR CLASS
CERTIFICATION, APPOINTMENT OF CLASS COUNSEL, AND CLASS-WIDE
TEMPORARY RESTRAINING ORDER [or in the alternative PRELIMINARY
INJUNCTION]**

Having reviewed the submissions of the Parties and the record in this case, the Court finds as follows:

As to Plaintiffs' Motions for Class Certification and Appointment of Class Counsel pursuant to Federal Rule of Civil Procedure 23, it is hereby **ORDERED AND ADJUDGED**:

1. Plaintiffs' Motion for Class Certification is GRANTED.
2. This action shall proceed as a class action with the members of the Class

consisting of:

All members of the United States Coast Guard who (a) are subject to a mandate of the Department of Defense, Department of Homeland Security, or Coast Guard to receive a

COVID-19 vaccine, (b) submitted a request for religious accommodation regarding such mandate based on a sincerely held religious belief, and (c) have received or will receive a purported final denial of such request from the Department of Defense, Department of Homeland Security, or Coast Guard.

3. The following Named Plaintiffs are appointed as class representatives of the United States Coast Guard Class:

- a. Lieutenant Junior Grade (LTJG) Alaric Stone;
- b. Boatswain's Mate First Class (BM1) Eric Jackson
- c. Lieutenant Junior Grade (LTJG) Michael Marcenelle

4. The following attorneys are appointed as co-counsel for the Class:

- a. Adam Hochschild, Thomas More Society Special Counsel
- b. Mary Catherine Hodes, Thomas More Society Special Counsel
- c. Paul Jonna, Thomas More Society Special Counsel
- d. Stephen Crampton, Thomas More Society Counsel
- e. Michael McHale, Thomas More Society Counsel
- f. Nathan Loyd, Thomas More Society Special Counsel
- g. Attorneys from the Thomas More Society, a non-profit organization with its office in Chicago, Illinois.
- h. Charles W. Fillmore, The Fillmore Law Firm, L.L.P.
- i. H. Dustin Fillmore III, The Fillmore Law Firm, L.L.P.

As to Plaintiffs' Motion for a Class-Wide Temporary Restraining Order (TRO) and Preliminary Injunction pursuant to Federal Rule of Civil Procedure 65, it is hereby **ORDERED AND ADJUDGED:**

1. Plaintiffs' Motion for TRO [*or in the alternative* Preliminary Injunction] is **GRANTED.**

2. Defendants and their agents, employees and successors in office, and all other persons acting in active concert or participation with them, are **TEMPORARILY RESTRAINED** [*or in the alternative* **PRELIMINARILY ENJOINED**] from enforcing, threatening to enforce, attempting to enforce, or otherwise requiring compliance with the

COVID-19 vaccine mandates of the Department of Defense, Department of Homeland Security, and the U.S. Coast Guard (the “Mandates”), against Plaintiffs or any member of the Class. The enjoined Mandates include but are not limited to:

- a. The Department of Defense’s August 24, 2021 Order mandating military service members to obtain a COVID-19 vaccine;
- b. Coast Guard ALCOAST 305/21 (August 26, 2021);
- c. Coast Guard ALCOAST 315/21 (September 7, 2021); and
- d. Coast Guard ALCOAST 270/22 (July 25, 2022).

3. Defendants and their agents, employees, and successors in office, and all others in active concert or participation with them, are **TEMPORARILY RESTRAINED** [*or in the alternative PRELIMINARILY ENJOINED*] from: (a) enforcing their policy of across-the-board denial of religious accommodation requests for COVID-19 vaccination; (b) treating the religious accommodation requests by Plaintiffs or any member of the Class differently than requests for accommodations from the Mandates for secular reasons; and (c) taking any adverse action against Plaintiffs or any member of the Class on the basis of this lawsuit or of any Plaintiff’s or Class member’s request for religious accommodation related to the Mandates.

4. For purposes of this Order, “adverse action” includes but is not limited to: separation from service; forced retirement from service; change in job title or duties; recoupment of education or training expenses; determination of medical disqualification or non-deployability; loss or delay of promotion, training opportunities, or retirement; issuing or recording written reprimands; denying leave; requiring health protection protocols more restrictive than those required for vaccinated personnel; and loss of bonuses, pay, or benefits.

5. This class-wide restraining order [*or in the alternative* injunction] is immediately **PARTIALLY STAYED** in part, insofar and only insofar as it precludes the Coast Guard from considering Plaintiffs' and Class members' vaccination status in making deployment, assignment, and other operational decisions. *See Austin v. Navy Seals 1-26*, 142 S. Ct. 1301 (2022).

6. Because Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction raises issues concerning the free exercise of religion, because of the matters at stake in issuance of this restraining order and injunction, and because issuance of this order will have no financial impact on Defendants, the bond requirement of Federal Rule of Civil Procedure 65(c) is **WAIVED**.

SO ORDERED on this ____ day of _____, 2022.

Hon. UNITED STATES DISTRICT JUDGE